

REMARKS

Summary of Office Action

Claims 1-12 were pending in this case.

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Lett et al. U.S. Patent No. 5,592,551 ("Lett"). Claims 1-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Youman et al. U.S. Patent No. 5,629,733 ("Youman"). Claim 1 was rejected under 35 U.S.C. § 103(a) as being obvious from Kostreski et al. U.S. Patent No. 5,734,589 ("Kostreski") in view of Lett.

Summary of Applicants' Reply

Applicants have amended claims 1, 2 and 4-12, in order to more particularly define the claimed invention. Applicants have canceled claim 3 without prejudice. No new matter has been added and these amendments are fully supported by the originally-filed application (see, e.g., applicants' specification at page 2, line 20 to page 3, line 5; page 5, lines 6-24; and page 20, line 25 to page 21, line 13).

The Examiner's rejections are respectfully traversed.

Applicants' Reply

Lett

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Lett. Applicants respectfully traverse this rejection.

Applicants' invention, as defined by amended independent claim 1, is directed toward a system configured with an EPG database. The system includes, *inter alia*, a processor

that displays program listings including a first program listing associated with a first television channel that provides regularly unscrambled television programs. The processor modifies the displayed program listings to include a second program listing associated with a second television channel that provides regularly scrambled television programs in response to determining that the second television channel is received without scrambling.

Lett generally describes systems and methods for purchasing pay-per-view events. The television system includes an electronic program guide giving a schedule of programs available including pay-per-view and video-on-demand programs. (Lett, col. 2, lines 64-67). The user may select programs to view, including pay-per-view and video-on-demand, directly from the electronic program guide (Lett, col. 3, lines 1-4). In Figure 5, a pay-per-view program listing ("Terminator 2") is displayed along with unscrambled program listings ("Full House", "Evening Shade" etc.) in an electronic program guide.

Applicants respectfully submit that Lett does not show or suggest a processor that modifies displayed program listings to include a program listing associated with a television channel that provides regularly scrambled television programs in response to determining that the television channel is received without scrambling, as defined by applicants' claim 1. Instead, Lett provides a display that includes both unscrambled and scrambled channel program listings and allows the user to purchase one of the scrambled channels in order to unscramble it (Lett, col. 14, lines 53-58; col. 12, lines 28-36; Figure 5). Because the program listings associated with the scrambled

channel are always displayed regardless of whether or not they are scrambled, the program listings are not modified to include a program listing associated with a channel that provides regularly scrambled programs in response to determining that the channel is received without scrambling. Thus, Lett does not show or suggest all the limitations of applicants' claim 1.

Youman

Claim 1-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Youman. Applicants respectfully traverse this rejection.

Youman generally discusses an electronic program schedule system. In some embodiments, a user may revise a user preference list (Youman, col. 26, lines 63-67). The user preference list may be used to limit tuning of the television receiver or display of schedule information in the electronic program guide (Youman, col. 27, lines 3-6).

Applicants' claim 1 patentably improves upon Youman by modifying the displayed program listings to include a program listing associated with a regularly scrambled television channel in response to determining that the regularly scrambled television channel is received without scrambling. In particular, in Youman the electronic program schedule system is provided with comprehensive information about pay-per-view events, premium services or other packaged programming to which the user does not subscribe in order to give the user the ability to automatically purchase such programming on demand or impulse (Youman, col. 4, lines 16-22 and 59-60) which is not the same as applicants' claimed modifying a displayed program

listing to include a program listing associated with a regularly scrambled television channel in response to determining that the channel is received without scrambling.

Furthermore, the viewer preference list of Youman does modify the display of a program listing to include a program listing associated with a regularly scrambled television channel, as defined by applicants' claim 1. Instead, the viewer preference list of Youman would be modified, if at all, responsive to a user action (e.g., revising a channel preference list) (Youman, col. 26, line 63 to col. 27, line 62), not in response to determining that a regularly scrambled channel is received without scrambling. Thus, Youman does not show or suggest all the limitations of applicants' claim 1.

Kostreski and Lett

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being obvious from Kostreski in view of Lett. Applicants respectfully traverse this rejection.

The Examiner acknowledged that Kostreski does not show or suggest "an unscrambled program transmitted on a regularly scrambled channel" and cites Lett as allegedly making up for this deficiency. As shown above, Lett does not show or suggest a processor that modifies the displayed program listing to include a program listing associated with a regularly scrambled television channel in response to determining that the regularly scrambled television channel is received without scrambling. Therefore, Lett does not make up for the deficiencies of Kostreski relative to the rejection. Accordingly, Kostreski and

Application No. 10/823,993
Amdt. Dated October 24, 2008
Reply to Office Action of July 24, 2008

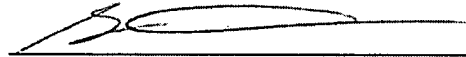
Lett, whether taken alone or in combination, do not show or suggest all the limitations of applicants' claim 1.

For at least these reasons, applicants' claim 1, and claims 2-12 which depend, directly or indirectly, therefrom are patentable over the prior art of record.

Conclusion

For the reasons stated above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,



Gall C. Gotfried
Registration No. 58,333
Agent for Applicants
ROPES & GRAY LLP
Customer No. 75563